

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Certification of	)	MB 04-64
Digital Transmission Content Protection	)	
("DTCP") for Digital Broadcast	)	
Content Protection	)	

**RESPONSE OF  
DIGITAL TRANSMISSION LICENSING ADMINISTRATOR LLC  
TO MPAA PETITION FOR RECONSIDERATION OR CLARIFICATION**

The Digital Transmission Licensing Administrator LLC ("DTLA") submits this response to the Petition for Partial Reconsideration or Clarification filed in this docket on September 13, 2004, by the Motion Picture Association of America and its seven member studios (collectively "MPAA"). Although MPAA filed its petition in this docket, DTLA notes the MPAA Petition neither interposes any opposition nor requests any changes to the certifications for the Digital Transmission Content Protection technology ("DTCP") approved by the Commission. Therefore, it is the understanding of DTLA that the MPAA petition should not affect the scope of the certifications with respect to DTCP.<sup>1</sup>

DTLA responds herein to the issue addressed in Section II of the MPAA Petition, that is, whether Commission oversight is necessary or appropriate where post-certification changes to a technology are effectuated pursuant to a "change management" license process. DTLA agrees with the MPAA position, and so noted in its Comments and Reply Comments submitted to the

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<sup>1</sup> Similarly, any concerns voiced by the MPAA with respect to affinity-based systems do not affect the certifications of DTCP sought in this docket by DTLA.

Commission in connection with the Broadcast Flag proceeding. *In the Matter of: Digital Broadcast Content Protection*, MB Docket 02-230, Comments of DTLA at 12-13 (Feb. 17, 2004); Reply Comments of DTLA at 10 (March 15, 2004).

DTLA respectfully suggests that an additional layer of Commission approval for changes to digital output protection technologies<sup>2</sup> would not be necessary to promote the goals of the Commission's Broadcast Flag regulations, where an agreed-upon change management procedure exists. Change management gives content owners the ability to ensure that technology changes will not diminish the security offered to content owners by certified technologies against mass, indiscriminate redistribution. The provisions of the DTLA Adopter Agreement, including limits on the types of changes that can be made and provisions for vetting Adopter questions and comments individually or through a Content Protection Implementer Forum, ensure thorough consideration of Adopter input to any proposed changes. Marketplace constraints, DTLA's Encoding Rules and Commission regulations secure rights and privileges for consumers to use, record and enjoy Marked Content. Thus, Commission approval of post-certification changes would add little to promote the interests at the heart of the Commission's Report and Order, but would add delay and complexity to the implementation of technological changes (*e.g.*, mapping to additional interfaces) that might otherwise benefit consumers and Adopters.

Commission oversight could not overturn a change that had been rejected through a change management process, inasmuch as change management provisions would prevent the licensor from presenting the change for Commission consideration. Conversely, it is difficult to envision a circumstance in which the Commission would reject a change that the technology

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<sup>2</sup> Inasmuch as DTCP is an output protection technology, DTLA takes no position on whether the arguments set forth herein apply equally with respect to digital recording protection technologies.

proponent wanted to make and that had passed the change management evaluations by Content Participants and Adopters. Such a rejection could compel a technology proponent and its licensees to forego entirely improvements that they collectively had determined to be acceptable, and that otherwise could promote consumer benefits (*e.g.*, greater technological flexibility or access to higher-value/earlier-window content or new video business services).

Finally, we note the possibility that competitors might abuse the Commission processes so as to delay introduction of changes to existing technologies and, thereby, gain a marketplace advantage for their own technology or products. The Commission should avoid creating such opportunities whereby its oversight regulations inadvertently would bestow rather than prevent unfair marketplace advantages.

For these reasons, DTLA supports Section II of the MPAA Petition for Reconsideration.

Respectfully submitted,

/s/

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### Certificate of Service

I hereby certify that on September 24, 2004, a copy of the foregoing Response of Digital Transmission Licensing Administrator LLC to MPAA Petition for Partial Reconsideration or Clarification was served by first class mail, postage prepaid, upon the following persons:

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